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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,025	07/19/2001	Neil F. Schutzman	EMC-011PUS	9106
22494	7590	02/11/2005	EXAMINER	
DALY, CROWLEY & MOFFORD, LLP SUITE 101 275 TURNPIKE STREET CANTON, MA 02021-2310			CHEN, CHONGSHAN	
			ART UNIT	PAPER NUMBER
			2162	

DATE MAILED: 02/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/909,025

Applicant(s)

SCHUTZMAN ET AL.

Examiner

Chongshan Chen

Art Unit

2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 47-63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 47-63 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. This action is responsive to communication filed on 3 September 2004. Claims 1-46 are canceled; claims 47-63 are pending.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 47-63 are rejected under 35 U.S.C. 102(b) as being anticipated by Gelb et al. (hereinafter “Gelb”, US Patent 5,018,060).

As per claim 1, Gelb discloses a method of creating a data storage pool, comprising:  
providing information for a plurality of storage resources in response to a user query  
(Gelb, col. 7, line 54 – col. 8, line 62);

assigning at least one storage property to selected ones of the plurality of storage  
resources in response to user instructions to define the data storage pool (Gelb, col. 7, line 54 –  
col. 8, line 62);

receiving a logical expression to identify respective ones of the storage resources that are  
available for a requested store operation based upon the storage properties assigned to the  
selected ones of the storage resources (Gelb, col. 12, line 5 – col. 15, line 67, “the symbol |  
indicates logic OR, && indicates a logic AND, ...”); and

allocating selected ones of the identified storage resources for the requested store operation (Gelb, col. 12, line 5 – col. 15, line 67).

As per claim 48, Gelb teach all the claimed subject matters as discussed in claim 47, and further teach the logical expression includes at least one logical operator and at least two storage properties (Gelb, col. 12, line 5 – col. 15, line 67).

As per claim 49, Gelb teach all the claimed subject matters as discussed in claim 48, and further teach the logical expression includes an amount of storage needed for the required store operation (Gelb, col. 4, lines 47-48, col. 17, lines 57-59).

As per claim 50, Gelb teach all the claimed subject matters as discussed in claim 47, and further teach receiving a new property as part of the logical expression (Gelb, col. 7, line 54 – col. 8, line 62).

As per claim 51, Gelb teach all the claimed subject matters as discussed in claim 47, and further teach assigning a particular one of the at least one storage properties to particular type of storage resource (Gelb, col. 7, line 54 – col. 8, line 62).

As per claim 52, Gelb teach all the claimed subject matters as discussed in claim 47, and further teach the plurality of storage resources includes logical volumes (Gelb, col. 17, lines 18-22).

As per claim 53, Gelb teach all the claimed subject matters as discussed in claim 47, and further teach receiving a user instruction to identify a storage resource as hand-off storage (Gelb, col. 7, line 54 – col. 8, line 62).

As per claim 54, Gelb teach all the claimed subject matters as discussed in claim 47, and further teach the user query is generated by a storage administrator (Gelb, col. 4, lines 57-58).

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As per claim 55, Gelb teach all the claimed subject matters as discussed in claim 47, and further teach the logical expression is generated by a database administrator (Gelb, col. 13 – 14, “/\* allow data base administrators to select \*/”).

Claims 56-63 are rejected on grounds corresponding to the reasons given above for claims 47-49 and 51.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 47-63 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Contact Information***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chongshan Chen whose telephone number is (571)272-4031. The examiner can normally be reached on Monday - Friday (8:00 am - 4:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E Breene can be reached on (571)272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chongshan Chen  
February 6, 2005



JEAN M. CORRIELUS  
PRIMARY EXAMINER